

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF REVENUE  
DIVISION OF LOCAL SERVICES**

Property Tax Bureau  
Informational Guideline Release No. 88-227 Payment and Deferral of Municipal Charges  
August, 1988

**PAYMENT AND DEFERRAL OF MUNICIPAL CHARGES**

Chapter 42 of the Acts of 1988  
(Adding §§21E & 42J to G.L. Ch. 40 and §16G to G.L. Ch. 83)  
(Amending G.L. Ch. 59, §5, CL. 41A)

**SUMMARY:**

This legislation clarifies municipalities' powers to establish billing procedures for municipal charges and bills, and permits cities and towns to defer water and sewer user charges in the same manner as they can defer property taxes under G.L. 59, §5, CL. 41A. The legislation also amends the Clause 41A property tax deferral to provide that the lien for the deferred taxes may be enforced by foreclosure in the same manner as tax titles.

**GUIDELINES:**

**BILLING PROCEDURES**

The new section 21E of Chapter Forty of the General Laws spells out the power of cities, towns and districts to establish due dates for payment of municipal bills, and to fix an interest rate on overdue bills. Cities and towns must take such action by enactment of ordinances or bylaws, respectively; districts can fix such due dates and interest rates, by a vote of the district meeting. The interest rate on overdue charges cannot exceed the rate of interest on overdue property taxes established under G.L. Ch. 59 §57 (currently 14%).

**DEFERRAL OF WATER & SEWER USER CHARGES**

The new local option provisions permitting the deferral of water or sewer charges are found in G.L. Ch. 40 §42J (for water charges) and G.L. Ch. 83 §16G (for sewer charges). Each provision must be separately-accepted.

1. The deferral will only apply to user charges, not to charges in the nature of betterments.
2. Only ratepayers who are receiving a deferral of their property taxes under G.L. Ch. 59 §5 CL. 41A can defer water and sewer charges.
3. In the first year only, a ratepayer must apply to the water or sewer commissioners for the deferral within the time limit for applying for a Clause 41A deferral.
4. After the deferral is in effect, the water or sewer commissioners must notify the assessors each year of the amount of charges to be deferred.
5. The assessors must commit the deferred charges each year along with the property tax to the collector.
6. Payment of the deferred charges will be secured by the statement of lien file by the assessors under Clause 41A; no additional statement need be executed or recorded. The amount of the deferred water and sewer charges should be listed on any municipal lien certificate.
7. The total amount of deferred water and sewer charges will not be used to determine continued eligibility for Clause 41A.
8. If a taxpayer ceases to receive a Clause 41A exemption, the assessors must notify the board or boards which are deferring the taxpayer's water or sewer charges.

9. Deferred water and sewer charges will be due and payable at the same time as taxes deferred under Clause 41A are due and payable, i.e., when the taxpayer dies or conveys the property. Interest will accrue on the deferred water and sewer charges at the same rate it accrues on taxes deferred under Clause 41A.

#### **ENFORCEMENT OF LIENS FOR DEFERRED TAXES & CHARGES**

The procedures for enforcing payment of deferred taxes and other charge's has been clarified by a new paragraph added to General Laws Ch. 59 §5 Clause 41A. The new law provides that the assessors' recorded statement under Clause 41A will have the same standing as a valid tax taking, with these exceptions:

- A. there can be no assignment of the lien, as there can be of a tax title;
- B. the interest rate on the deferred taxes and charges **will** be the eight percent provided for in Clause 41A until the property is conveyed or the taxpayer dies, at which time the interest rate will become the rate provided for tax titles in G.L. Ch. 60 §62 (currently 16%);
- C. foreclosure proceedings under G.L. Ch. 60 §65 cannot be started until six months after the conveyance of the property or after the death of the taxpayer, whichever is earlier.

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The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

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